

Attorney's Docket No.: 34874-093 / 2004P00135US

REMARKS

Reconsideration and allowance are requested in view of the above amendments and following remarks.

Rejections under 35 USC § 101

Claims 22 and 23 stand rejected under 35 USC section 101 as allegedly being directed to non-statutory subject matter. These rejections are traversed.

Claims 22 and 23 are rejected for allegedly not including a tangible result. As amended, claims 22 and 23 recite, in part "execute the query on the subset or the data repository[,] and provide query results," which is submitted as including a tangible result. Thus, the rejections should be withdrawn.

Rejections under 35 USC § 112

Claims 6, 19-20, and 22 stand rejected under 35 USC section 112 for allegedly including subject matter not disclosed in the original description. These rejections are traversed.

As amended, claims 6, 20, and 22 recite, in part, "F is a safety factor," which is suggested in the office action as being subject matter from the original description that would overcome the rejection. Thus, the rejections of these claims under section 112 should be withdrawn. In addition, claim 19 has been canceled, thus, the rejection of this claim is moot.

Rejections under 35 USC §§ 102, 103

Claims 1-3, 5, 9, 11-12, 14-15, and 17 stand rejected under 35 USC section 102(e) as allegedly being anticipated by Gharachorloo et al (US Patent 7,174,346; "the '346 patent"). Claims 7, 13 and 18 stand rejected under 35 USC section 103(a) as being unpatentable over the '346 Patent in view of Demarcken et al (US Pre-Grant publication 200410249799; "the '799 publication"). Claims 6, 19-20, and 23 are rejected under 35 U.S.C. section 103(a) as being unpatentable over the '346 patent in view of Carey et al. (US Patent 5,956,706; "the '706 patent"). Claims 8, 20, and 22 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the '346 patent in view of Chen et al. ("Selectivity Estimations for Boolean Queries"; "Chen"), further in view of, Zuzarte (US Patent 7,171,408; "the '408 patent"), and

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further in view of Keller et al. (US Pre-Grant Publication 2007/0022136; "the '136 publication"). These rejections are traversed.

The independent claims include features not present in the cited references.

Claims 1, 9, and 14

Claims 1, 9, and 14 include features not disclosed in the '346 patent, thus, these claims are allowable.

In particular, claims 1, 9, and 14 include features related to determining whether to execute a query on a subset of data, where the query is to be executed on the subset of the data if an estimate of the number of results of the query indicates that executing the query on the subset of the data is estimated to return a number of results greater than a threshold number. In example implementations, a query is executed on a subset, but not an entire data repository, if a sufficient number of results are estimated to exist in a subset such that, advantageously, a query need not be executed on an entire data set. Present Application ¶ 0014. Conversely, if a subset of data would not provide a sufficient quantity of results, rather than performing needless identification of subsets and searching of subsets, an entire data repository may be searched.

In contrast to estimating a number of results to determine whether to execute a query on a subset, the '346 patent discloses executing the query on the alleged subset. In particular, column 11, lines 38 through 45 recite:

"[f]or example, the signal may indicate that less than ten search results were obtained when searching the cache or standard index server(s). If ten results is the signal threshold value 228 (FIG. 1), and the number of search results for a particular search query is less than ten, then the signal comparison procedures 226 (FIG. 2A) will determine that the signal threshold value has not been met (342--No) and will then perform an extended search (emphasis added)."

Although the disclosure includes an alleged "estimate," in the '346 patent the search is performed on the alleged subset without regard to an estimate, as the alleged estimate of the '346 patent is not used to determine whether to execute a query on a subset of data. In particular, column 11, lines 54 through 58 recite, in part:

"For example, the standard index server or some portion thereof may return search results, inherently representing the number of results ... an estimate may be generated using a sample index that is significantly smaller than the full index (e.g.,

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less than ten percent of the size of the full index, and in some embodiments less than two percent of the size of the full index)."

Thus, independent claims 1, 9, and 14 are not anticipated by the '346 patent.

Claims 22 and 23

Claims 22 and 23 include features not disclosed in the '346 patent, and believed not to be disclosed in Chen, the '408 patent, the '136 publication, or the '706 patent; thus, claims 22 and 23 are allowable. For example, similar to the above independent claims, claim 22 recites, in part: "determine to execute the query on a subset of data in the data repository if the weighted subset estimate is greater than an estimate of the number of results of the query (emphasis added)."

Similarly, claim 23 recites, in part:

"determine to execute the query on a subset of data in the data repository if a weighted subset estimate is greater than the estimate of the number of results of the query (emphasis added)."

Thus, all of the independent claims are allowable and for at least the reasons stated above the dependent claims are also allowable.

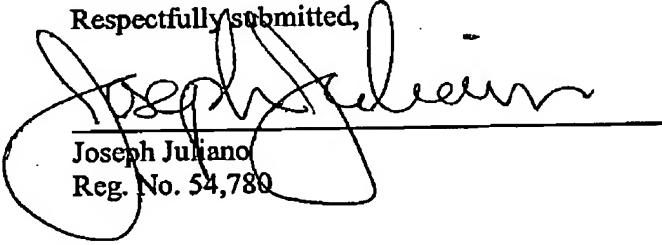
CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Applicant asks that all claims be allowed.

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If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 34874-093.

Respectfully submitted,


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Date: June 12, 2007

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